



February 17, 2009

HOUSE BILL No. 1589

DIGEST OF HB 1589 (Updated February 11, 2009 6:08 pm - DI 69)

Citations Affected: IC 13-11; IC 13-20.5.

Synopsis: Electronic waste. Requires manufacturers of household televisions and computer monitors that contain cathode ray tubes or flat panel screens larger than nine inches measured diagonally to recycle an amount of certain electronic devices that is equal to at least 80% of the total weight of these video display devices sold to households during the preceding year. Allows the solid waste management board to adopt rules to establish a percentage that is greater than 80%. Requires: (1) manufacturers of video display devices; and (2) collectors and recyclers of certain electronic devices; to register with the department of environmental management. Provides that before September 1, 2009, and before September 1 of each year thereafter, a manufacturer must pay the department a registration fee of: (1) \$5,000 for the initial program year during which a manufacturer's video display devices are sold to households; and (2) \$2,500 for each year thereafter plus a variable recycling fee based on the amount of electronic devices recycled by the manufacturer from households during the previous year. Provides that a manufacturer that produces fewer than 100 video displays for sale to households during a year may not be charged a registration fee. Requires the registration fees to be deposited in the electronic waste fund (fund). Provides that the fund is established to implement the electronic waste recycling program. Includes provisions concerning the mixing of certain electronic devices or any other computer, computer monitor, printer, or television with municipal waste that is intended for disposal at a landfill or any waste that is intended for disposal by burning or incineration after December 31, 2010. Removes a definition that is never used.

Effective: July 1, 2009.

Sullivan, Avery

January 16, 2009, read first time and referred to Committee on Environmental Affairs.
February 16, 2009, amended, reported — Do Pass.

HB 1589—LS 7433/DI 69+



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February 17, 2009

First Regular Session 116th General Assembly (2009)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

HOUSE BILL No. 1589

A BILL FOR AN ACT to amend the Indiana Code concerning environmental law.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 13-11-2-23.5 IS ADDED TO THE INDIANA
2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2009]: **Sec. 23.5. "Cathode ray tube", for**
4 **purposes of this chapter, means a vacuum tube or picture tube**
5 **used to convert an electronic signal into a visual image.**

6 SECTION 2. IC 13-11-2-31.1 IS ADDED TO THE INDIANA
7 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
8 [EFFECTIVE JULY 1, 2009]: **Sec. 31.1. (a) "Collection", for**
9 **purposes of IC 13-20.5, means the receipt of covered electronic**
10 **devices from households.**

11 **(b) The term includes all collection activities up to the time the**
12 **covered electronic devices are delivered to a recycler.**

13 SECTION 3. IC 13-11-2-31.2 IS ADDED TO THE INDIANA
14 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
15 [EFFECTIVE JULY 1, 2009]: **Sec. 31.2. "Collector", for purposes of**
16 **this chapter and IC 13-20.5, means a public or private entity:**

17 **(1) that:**

HB 1589—LS 7433/DI 69+



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(A) receives covered electronic devices from households;
and

(B) arranges for the delivery of the covered electronic
devices to a recycler; or

(2) that collects covered electronic devices directly from
households, including curbside collection from households.

SECTION 4. IC 13-11-2-38.1 IS ADDED TO THE INDIANA
CODE AS A NEW SECTION TO READ AS FOLLOWS
[EFFECTIVE JULY 1, 2009]: Sec. 38.1. (a) "Computer", for
purposes of this chapter and IC 13-20.5, means an electronic, a
magnetic, an optical, an electrochemical, or other high speed data
processing device performing logical, arithmetic, or storage
functions.

(b) The term does not include an automated typewriter or
typesetter, a portable handheld calculator or device, or another
similar device.

SECTION 5. IC 13-11-2-38.2 IS ADDED TO THE INDIANA
CODE AS A NEW SECTION TO READ AS FOLLOWS
[EFFECTIVE JULY 1, 2009]: Sec. 38.2. (a) "Computer monitor",
for purposes of this chapter and IC 13-20.5, means an electronic
device that is:

(1) a cathode ray tube or flat panel display; and

(2) primarily intended to display information from a central
processing unit or the Internet.

(b) The term includes a laptop computer.

SECTION 6. IC 13-11-2-47.5 IS ADDED TO THE INDIANA
CODE AS A NEW SECTION TO READ AS FOLLOWS
[EFFECTIVE JULY 1, 2009]: Sec. 47.5. "Covered electronic
device", for purposes of this chapter and IC 13-20.5, means a
computer, peripheral, facsimile machine, DVD player, video
cassette recorder, or video display device that is sold to a household
by means of retail, wholesale, or electronic commerce.

SECTION 7. IC 13-11-2-61.3 IS ADDED TO THE INDIANA
CODE AS A NEW SECTION TO READ AS FOLLOWS
[EFFECTIVE JULY 1, 2009]: Sec. 61.3. "Dwelling", for purposes of
this chapter, means a building, a structure, or another enclosed
space that is:

(1) permanent or temporary;

(2) movable or fixed; and

(3) an individual's home or place of lodging.

SECTION 8. IC 13-11-2-103.9 IS ADDED TO THE INDIANA
CODE AS A NEW SECTION TO READ AS FOLLOWS

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[EFFECTIVE JULY 1, 2009]: **Sec. 103.9. "Household"**, for purposes of sections 31.1, 31.2, 47.5, 179.9, 180, 180.1, 194, and 245.4 of this chapter and IC 13-20.5, means the occupants of a dwelling located in Indiana who use a video display device at the dwelling primarily for personal use.

SECTION 9. IC 13-11-2-116, AS AMENDED BY P.L.131-2006, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 116. (a) "Landfill", for purposes of IC 13-20-2, ~~and IC 13-20-24,~~ **and IC 13-20.5**, means a solid waste disposal facility at which solid waste is deposited on or beneath the surface of the ground as an intended place of final location.

(b) "Landfill", for purposes of section 114.2 of this chapter and IC 13-20-11, means a facility operated under a permit issued under IC 13-15-3 or IC 13-7-10 (before its repeal) at which solid waste is disposed of by placement on or under the surface of the ground.

(c) "Landfill", for purposes of section 82 of this chapter and IC 13-21, means a solid waste disposal facility at which solid waste is deposited on or in the ground as an intended place of final location. The term does not include the following:

(1) A site that is devoted solely to receiving one (1) or more of the following:

(A) Fill dirt.

(B) Vegetative matter subject to disposal as a result of:

(i) landscaping;

(ii) yard maintenance;

(iii) land clearing; or

(iv) any combination of activities referred to in this clause.

(2) A facility receiving waste that is regulated under the following:

(A) IC 13-22-1 through IC 13-22-8.

(B) IC 13-22-13 through IC 13-22-14.

SECTION 10. IC 13-11-2-126 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 126. (a) "Manufacturer", for purposes of IC 13-20-16, means a person who is engaged in the business of making lead acid batteries:

(1) in Indiana; or

(2) for sale in Indiana.

(b) "Manufacturer", for purposes of IC 13-27.5, means a manufacturer in Indiana operating under standard industrial classification codes twenty (20) through thirty-nine (39) in the Standard Industrial Classification Manual of the United States Office of Management and Budget.

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(c) "Manufacturer", for purposes of IC 13-20-17.5, means any individual, corporation, limited liability company, partnership, trust, estate, or unincorporated association that:

(1) produces in the United States a mercury-added product that does not consist of multiple components produced by separate entities;

(2) is the last entity to produce or assemble in the United States a mercury-added product that consists of multiple components produced by separate entities; or

(3) domestically distributes a mercury-added product produced in a foreign country.

(c) "Manufacturer", for purposes of sections 179.9, 180.1, 195.7, and 245.4 of this chapter and IC 13-20.5, means a person that:

(1) manufactures video display devices to be sold under the person's own brand or a brand the person licenses as identified by the person's own brand label or the brand label the person licenses;

(2) sells video display devices manufactured by others under the person's own brand or a brand the person licenses as identified by the person's own brand label or the brand label the person licenses; or

(3) assumes the responsibilities and obligations of a manufacturer under IC 13-20.5.

SECTION 11. IC 13-11-2-133 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 133. (a) "Municipal waste", for purposes of:

(1) IC 13-20-4;

(2) IC 13-20-6;

(3) IC 13-20-21;

(4) IC 13-20-23;

(5) IC 13-20.5-10;

~~(5)~~ **(6)** IC 13-22-1 through IC 13-22-8; and

~~(6)~~ **(7)** IC 13-22-13 through IC 13-22-14;

means any garbage, refuse, industrial lunchroom or office waste, and other similar material resulting from the operation of residential, municipal, commercial, or institutional establishments and community activities.

(b) The term does not include the following:

(1) Hazardous waste regulated under:

(A) IC 13-22-1 through IC 13-22-8 and IC 13-22-13 through IC 13-22-14; or

(B) the federal Solid Waste Disposal Act (42 U.S.C. 6901 et

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seq.), as in effect on January 1, 1990.

(2) Infectious waste (as defined in IC 16-41-16-4).

(3) Wastes that result from the combustion of coal and that are referred to in IC 13-19-3-3.

(4) Materials that are being transported to a facility for reprocessing or reuse.

(c) As used in subsection (b)(4), "reprocessing or reuse" does not include either of the following:

(1) Incineration.

(2) Placement in a landfill.

SECTION 12. IC 13-11-2-156.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 156.5. "Peripheral", for purposes of this chapter, means a keyboard, a printer, or any other device that:**

(1) is sold exclusively for external use with a computer; and

(2) provides input or output into or from a computer.

SECTION 13. IC 13-11-2-172.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 172.1. "Program year", for purposes of this chapter and IC 13-20.5, means the period:**

(1) beginning July 1 in a year; and

(2) ending June 30 of the following year.

SECTION 14. IC 13-11-2-179.9 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 179.9. (a) "Recycler", for purposes of sections 31.1 and 31.2 of this chapter and IC 13-20.5, means an individual or public or private entity that accepts covered electronic devices from households and collectors for the purpose of recycling.**

(b) The term does not include a manufacturer that accepts products for refurbishment or repair.

SECTION 15. IC 13-11-2-180 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 180. (a) "Recycling", for purposes of IC 13-20-17.5 and IC 13-21, means a process by which materials that would otherwise become solid waste are:**

(1) collected;

(2) separated or processed; and

(3) converted into materials or products for reuse or sale.

(b) "Recycling", for purposes of section 179.9 of this chapter and IC 13-20.5, means the process of collecting and preparing video display devices or covered electronic devices for use in

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1 manufacturing processes or for recovery of useable materials
 2 followed by delivery of the materials for use. The term does not
 3 include the following:

- 4 (1) Destruction of recyclable materials by incineration or
 5 another process.
- 6 (2) Land disposal of recyclable materials.
- 7 (3) Reuse, repair, or any other process through which video
 8 display devices or covered electronic devices are returned to
 9 use for households in their original form.

10 SECTION 16. IC 13-11-2-180.1 IS ADDED TO THE INDIANA
 11 CODE AS A NEW SECTION TO READ AS FOLLOWS
 12 [EFFECTIVE JULY 1, 2009]: Sec. 180.1. "Recycling credits", for
 13 purposes of IC 13-20.5, means the result of:

- 14 (1) the number of pounds of covered electronic devices
 15 recycled by a manufacturer from households during a
 16 program year; minus
- 17 (2) the product of:
 18 (A) the number of pounds of video display devices sold to
 19 households during the same program year; multiplied by
 20 (B) the proportion of sales a manufacturer is required to
 21 recycle.

22 SECTION 17. IC 13-11-2-194 IS AMENDED TO READ AS
 23 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 194. (a) "Retailer", for
 24 purposes of IC 13-20-14, means a person engaged in the business of
 25 selling new tires at retail in Indiana.

26 (b) "Retailer", for purposes of IC 13-20-16, means a person engaged
 27 in the business of selling lead acid batteries at retail in Indiana.

28 (c) "Retailer", for purposes of section 195.7 of this chapter and
 29 IC 13-20.5, means a person that sells, rents, or leases, through sales
 30 outlets, catalogs, or the Internet, a video display device to a
 31 household and not for resale in any form.

32 SECTION 18. IC 13-11-2-195.7 IS ADDED TO THE INDIANA
 33 CODE AS A NEW SECTION TO READ AS FOLLOWS
 34 [EFFECTIVE JULY 1, 2009]: Sec. 195.7. (a) "Sale" or "sell", for
 35 purposes of sections 126(c) and 194(c) of this chapter and
 36 IC 13-20.5, means a transfer for consideration of title or of the
 37 right to use by a:

- 38 (1) lease or sales contract, including transactions conducted
 39 through sales outlets, catalogs, or the Internet or any other
 40 similar electronic means either inside or outside Indiana; and
- 41 (2) person that conducts the transaction and controls the
 42 delivery of a video display device to a consumer in Indiana.

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(b) The term does not include a manufacturer's or distributor's wholesale transaction with a distributor or retailer.

SECTION 19. IC 13-11-2-230.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 230.1. "Television", for purposes of this chapter and IC 13-20.5, means an electronic device that is:**

(1) a cathode ray tube or flat panel display; and

(2) primarily intended to receive:

(A) video programming via broadcast, cable, or satellite transmission; or

(B) video from surveillance or other similar cameras.

SECTION 20. IC 13-11-2-245.4 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 245.4. (a) "Video display device", for purposes of this chapter and IC 13-20.5, means a television or computer monitor, including a laptop computer, that:**

(1) contains a cathode ray tube or flat panel screen with a screen size that is greater than four (4) inches measured diagonally; and

(2) is marketed by a manufacturer for use by households.

(b) The term does not include the following:

(1) A video display device that is part of a motor vehicle or any component part of a motor vehicle assembled by, or for, a vehicle manufacturer or franchised dealer, including replacement parts for use in a motor vehicle.

(2) A video display device, including a touch screen display, that is functionally or physically part of or connected to a system or equipment designed and intended for use in:

(A) an industrial;

(B) a commercial, including retail;

(C) a library checkout;

(D) a traffic control;

(E) a security, sensing, monitoring, or counterterrorism;

(F) a border control;

(G) a medical; or

(H) a governmental or research and development; setting, including diagnostic, monitoring, or control equipment.

(3) A video display device that is contained within any of the following:

(A) Clothes washer or dryer.

(B) Refrigerator or refrigerator and freezer.

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(C) Microwave oven or conventional oven or range.

(D) Dishwasher.

(E) Room air conditioner, dehumidifier, or air purifier.

(4) A telephone of any type unless it contains a video display area greater than nine (9) inches measured diagonally.

SECTION 21. IC 13-20.5 IS ADDED TO THE INDIANA CODE AS A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]:

ARTICLE 20.5. ELECTRONIC WASTE

Chapter 1. Registration Programs

Sec. 1. (a) After August 31, 2009, a manufacturer of video display devices sold or offered for sale to households shall submit a registration to the department that includes the following:

(1) A list of the brands of video display devices offered for sale in Indiana by the manufacturer, regardless of whether the manufacturer owns or licenses the brand.

(2) The name, address, and contact information of a person responsible for ensuring compliance with this article. The department shall post the contact information provided by each manufacturer on an Internet web site.

(3) A certification that the manufacturer has complied and will continue to comply with the requirements of this article.

(b) Before September 1, 2010, and before September 1 of each year thereafter, a manufacturer of video display devices sold or offered for sale to a household shall include in the registration submitted under subsection (a) a statement that discloses whether:

(1) any video display devices sold by the manufacturer to households exceed the maximum concentration values established:

(A) for lead, mercury, cadmium, hexavalent chromium, polybrominated biphenyls (pbbs), and polybrominated diphenyl ethers (pbdes); and

(B) under the directive restricting the use of certain hazardous substances in electrical and electronic equipment (RoHS Directive) 2002/95/EC of the European Parliament and Council, as amended; or

(2) the manufacturer has received an exemption from any of the maximum concentration values under the RoHS Directive that has been approved and published by the European Commission.

(c) A manufacturer that:

(1) begins to sell or offer for sale video display devices to

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households after August 31, 2009; and
 (2) has not submitted a registration under subsection (a);
 shall submit a registration to the department not more than ten
 (10) days after the date the manufacturer begins to sell or offer for
 sale video display devices to households.

(d) A manufacturer shall update the manufacturer's
 registration under this section not more than ten (10) days after the
 date the manufacturer changes the brand or brands of video
 display devices the manufacturer sells or offers for sale to
 households.

Sec. 2. After August 31, 2009, a manufacturer may not sell, offer
 for sale, or deliver to a retailer for subsequent sale a new video
 display device unless:

- (1) the video display device is labeled with the manufacturer's
 brand that is permanently affixed and readily visible; and
- (2) the manufacturer has submitted a registration to the
 department under section 1 of this chapter.

Sec. 3. (a) A registration received from a manufacturer by the
 department under this chapter is:

- (1) effective upon receipt by the department; and
- (2) valid until September 1 of the following year.

(b) The department shall review each registration and notify a
 manufacturer of any information required by this chapter that is
 omitted from the manufacturer's registration. Not more than
 thirty (30) days after the date a manufacturer receives notification
 from the department concerning incomplete information in the
 manufacturer's registration, the manufacturer shall submit a
 revised registration that includes the information required by the
 department.

(c) The department shall maintain on an Internet web site the
 names of manufacturers and the manufacturers' brands listed in
 registrations submitted to the department. The department shall
 update the Internet web site information promptly upon receipt of
 a new or updated registration. The Internet web site must contain
 prominent language stating that:

- (1) this article is directed at household equipment; and
- (2) the manufacturers' brands list is not a list of
 manufacturers qualified to sell to industrial, commercial, or
 other markets identified as exempt from the requirements of
 this article.

Sec. 4. (a) After August 1, 2009, a person may not operate as a
 collector of covered electronic devices from households unless the

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1 person has submitted a registration to the department on a form
2 prescribed by the commissioner.

3 (b) Registration information under subsection (a) must include
4 the following:

5 (1) The name, address, telephone number, and location of the
6 person's business.

7 (2) A certification that the collector has complied with and
8 will continue to comply with the requirements of this article.

9 (c) A registration submitted under this section is:

10 (1) effective upon receipt by the department; and

11 (2) valid until July 1 of the following year.

12 Sec. 5. (a) After August 1, 2009, a person may not recycle video
13 display devices generated by households unless the person has
14 submitted a registration to the department on a form prescribed by
15 the commissioner.

16 (b) Registration information under subsection (a) must include
17 the name, address, telephone number, and location of all recycling
18 facilities under the direct control of the recycler that may receive
19 video display devices from households and a certification that the
20 recycler has complied and will continue to comply with the
21 requirements of this article.

22 (c) A registered recycler may conduct recycling activities that
23 are consistent with this article.

24 (d) A registration submitted under this section is:

25 (1) effective upon receipt by the department; and

26 (2) valid until July 1 of the following year.

27 Sec. 6. The department may revoke the registration of a
28 collector or recycler that violates this article.

29 Chapter 2. Manufacturer's Registration Fee; Electronic Waste
30 Fund

31 Sec. 1. (a) Before September 1, 2009, and before September 1 of
32 each year thereafter, a manufacturer that registers under
33 IC 13-20.5-1 shall pay to the department an annual registration fee.
34 The department shall deposit the fee in the electronic waste fund
35 established by section 2 of this chapter.

36 (b) The registration fee for the initial program year during
37 which a manufacturer's video display devices are sold to
38 households is five thousand dollars (\$5,000). Each year thereafter,
39 the registration fee is equal to a base fee of two thousand five
40 hundred dollars (\$2,500) plus a variable recycling fee determined
41 in STEP FOUR of the following formula:

42 STEP ONE: Multiply the number of pounds of the

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1 manufacturer's video display devices sold to households
 2 during the previous program year, as reported to the
 3 department under IC 13-20.5-3-1(a), by the proportion of
 4 sales of video display devices required to be recycled under
 5 IC 13-20.5-4-1, set at:

6 (A) six-tenths (0.6) for the initial program year; and

7 (B) eight-tenths (0.8) for the second program year and
 8 every program year thereafter.

9 **STEP TWO:** Add the number of pounds of covered electronic
 10 devices recycled by the manufacturer from households during
 11 the previous program year, as reported to the department
 12 under IC 13-20.5-3-1(b), to the number of recycling credits
 13 the manufacturer elects to use to calculate the variable
 14 recycling fee, as reported to the department under
 15 IC 13-20.5-3-1(c)(2).

16 **STEP THREE:** Subtract the number of pounds determined in
 17 STEP TWO from the number of pounds determined in STEP
 18 ONE.

19 **STEP FOUR:** Multiply the greater of zero (0) or the number
 20 of pounds determined in STEP THREE by the per pound cost
 21 of recycling established as follows:

22 (A) Fifty cents (\$0.50) per pound for manufacturers that
 23 recycle less than fifty percent (50%) of the number of
 24 pounds determined in STEP ONE.

25 (B) Forty cents (\$0.40) per pound for manufacturers that
 26 recycle at least fifty percent (50%) but less than ninety
 27 percent (90%) of the number of pounds determined in
 28 STEP ONE.

29 (C) Thirty cents (\$0.30) per pound for manufacturers that
 30 recycle at least ninety percent (90%) of the number of
 31 pounds determined in STEP ONE.

32 (c) A manufacturer may retain recycling credits to be added, in
 33 whole or in part, to the actual number of pounds of covered
 34 electronic devices recycled by the manufacturer from households
 35 during the previous program year, as reported to the department
 36 under IC 13-20.5-3-1(b), during any of the three (3) succeeding
 37 program years. A manufacturer may sell all or any part of its
 38 recycling credits to another manufacturer, at a price negotiated by
 39 the parties, and the other manufacturer may use the credits in the
 40 same manner.

41 (d) Notwithstanding subsection (b), a manufacturer may not be
 42 charged a registration fee for any year in which the manufacturer

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1 produces fewer than one hundred (100) video display devices for
2 sale to households.

3 Sec. 2. (a) The electronic waste fund is established to implement
4 this article. The fund shall be administered by the department.

5 (b) The expenses of administering the fund shall be paid from
6 money in the fund.

7 (c) The treasurer of state shall invest the money in the fund not
8 currently needed to meet the obligations of the fund in the same
9 manner as other public money may be invested. Interest that
10 accrues from these investments shall be deposited in the fund.

11 (d) Money in the fund at the end of a state fiscal year does not
12 revert to the state general fund.

13 (e) All money accruing to the fund is appropriated continuously
14 for the purpose specified in subsection (a).

15 (f) Beginning in the second program year and continuing each
16 program year thereafter, as of the last day of each program year,
17 the department shall determine the total amount of the variable
18 recycling fees that were collected for the program year under
19 section 1(b) of this chapter.

20 (g) If the total amount of fees collected by the commissioner for
21 a program year under this section exceeds the amount the
22 department determines necessary to administer this article for the
23 next program year, the department shall refund on a pro rata
24 basis, to all manufacturers that paid any fees for the previous
25 program year, the amount of fees collected by the department that
26 exceeds the amount necessary to administer this article for the next
27 program year. The department is not required to refund amounts
28 of less than one hundred dollars (\$100) for a fiscal year.
29 Manufacturers that report collections of less than fifty percent
30 (50%) of their obligation for the previous program year are not
31 eligible for a refund.

32 Chapter 3. Reporting Requirements

33 Sec. 1. (a) Before September 1, 2010, and before September 1 of
34 each year thereafter, a manufacturer shall report to the
35 department an estimate of the total weight in pounds of its video
36 display devices sold to households during the previous program
37 year based on national sales data. A manufacturer shall submit
38 with an estimate under this subsection a description of how the
39 information or estimate was calculated.

40 (b) Before September 1, 2010, and before September 1 of each
41 year thereafter, a manufacturer shall report to the department the
42 total weight in pounds of covered electronic devices the

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1 **manufacturer:**

2 (1) collected from households and recycled; or

3 (2) arranged to have collected from households and recycled;
4 during the preceding program year.

5 (c) Before September 1, 2010, and before September 1 of each
6 year thereafter, a manufacturer shall report the following to the
7 department:

8 (1) The number of recycling credits the manufacturer has
9 purchased and sold during the preceding program year.

10 (2) The number of recycling credits possessed by the
11 manufacturer that the manufacturer intends to use in the
12 calculation of its variable recycling fee under IC 13-20.5-2-1.

13 (3) The number of recycling credits the manufacturer retains
14 at the beginning of the current program year.

15 (4) The amount in pounds of covered electronic devices the
16 manufacturer arranged for a recycler to collect and recycle
17 that were not converted to recycling credits.

18 **Sec. 2. Before August 1, 2010, and before August 1 of each year**
19 **thereafter, a recycler of covered electronic devices shall:**

20 (1) report to the department the total weight in pounds of
21 covered electronic devices recycled by the recycler during the
22 preceding program year; and

23 (2) certify that the recycler has complied with IC 13-20.5-5.

24 **Sec. 3. Before August 1, 2010, and before August 1 of each year**
25 **thereafter, a collector shall submit to the department a report that**
26 **contains:**

27 (1) the total weight in pounds of covered electronic devices
28 collected in Indiana by the collector; and

29 (2) a list of all recyclers to whom the collector delivered
30 covered electronic devices.

31 **Chapter 4. Manufacturer Responsibilities**

32 **Sec. 1. (a) Except as provided in subsection (b), a manufacturer**
33 **shall annually recycle or arrange for the collection and recycling**
34 **of an amount of covered electronic devices equal to at least eighty**
35 **percent (80%) of the total weight of the manufacturer's video**
36 **display devices sold to households during the preceding program**
37 **year.**

38 **(b) The solid waste management board may adopt rules:**

39 (1) under IC 4-22-2 and IC 13-14-9; and

40 (2) based on data collected under this article;

41 **to establish a percentage that is greater than eighty percent (80%)**
42 **for use in calculations performed under subsection (a).**

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Sec. 2. The obligations of a manufacturer:

- (1) apply only to video display devices received from households; and
- (2) do not apply to video display devices received from sources other than households.

Sec. 3. (a) A manufacturer shall conduct and document due diligence assessments of collectors and recyclers with which the manufacturer contracts to allow the manufacturer to comply with this chapter.

(b) A manufacturer shall maintain for three (3) years documentation showing that all video display devices recycled, partially recycled, or sent to downstream recycling operations by the manufacturer are recycled in compliance with this article.

Sec. 4. A manufacturer shall provide the department with contact information for an individual who can be contacted regarding the manufacturer's activities under this article.

Chapter 5. Recycler Responsibilities

Sec. 1. (a) Subsection (b)(3) and (b)(4) do not apply to a nonprofit corporation that contracts with a correctional institution to refurbish and reuse donated computers in schools.

(b) As part of the report submitted under IC 13-20.5-3-2, a recycler shall certify that facilities that are employed by the recycler to recycle covered electronic devices, including all downstream recycling operations:

- (1) comply with all applicable health, environmental, safety, and financial responsibility laws;
- (2) are licensed by all applicable governmental authorities;
- (3) do not use prison labor to recycle video display devices; and
- (4) possess liability insurance of at least one million dollars (\$1,000,000) for environmental releases, accidents, and other emergencies.

Sec. 2. Except to the extent otherwise required by law, a recycler is not responsible for any data that may be contained in a covered electronic device recycled by the recycler if an information storage device is included in the covered electronic device.

Chapter 6. Retailer Responsibilities

Sec. 1. A retailer that sells new video display devices shall provide information to households that:

- (1) describes where and how households may recycle video display devices; and
- (2) advises households of opportunities and locations for the

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convenient collection of video display devices for recycling.

Sec. 2. The requirement in section 1 of this chapter may be met by retailers:

(1) by providing to households the department's contact information or Internet web site address; and

(2) if the retailer sells through catalogs or the Internet, by including the information in a prominent location in the retailer's catalog or on the retailer's Internet web site.

Chapter 7. Department Duties

Sec. 1. The department shall establish procedures for:

(1) receipt and maintenance of the registration statements and certifications filed with the department under IC 13-20.5-1; and

(2) making the statements and certifications easily available to manufacturers, retailers, and the public.

Sec. 2. The department annually shall review the value of the following variables that are part of the formula used to calculate a manufacturer's annual registration fee under IC 13-20.5-2-1:

(1) The proportion of sales of video display devices sold to households that manufacturers are required to recycle under IC 13-20.5-4-1.

(2) The estimated per pound price of recycling covered electronic devices sold to households.

(3) The base registration fee.

If the department determines that any of these values must be changed to improve the efficiency or effectiveness of the activities regulated under this article or if the revenues in the electronic waste fund established under IC 13-20.5-2-2 exceed the amount that the department determines is necessary, the department shall submit recommended changes and the reasons for making the changes to the general assembly in a report in an electronic format under IC 5-14-6.

Sec. 3. Before January 15, 2010, and before January 15 of each year thereafter, the department shall calculate estimated sales of video display devices sold to households by each manufacturer during the preceding program year, based on national sales data.

Sec. 4. If the revenues in the electronic waste fund established under IC 13-20.5-2-2 exceed the amount that the department determines is necessary for efficient and effective administration of this article, the department shall recommend to the general assembly in a report submitted in an electronic format under IC 5-14-6 that:

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- (1) the base registration fee under IC 13-20.5-2-1(b);
 - (2) the proportion of sales of video display devices required to be recycled under IC 13-20.5-4-1; or
 - (3) the per pound cost of recycling under IC 13-20.5-2-1(b)
- STEP FOUR;

be lowered to reduce revenues collected in the subsequent program year by the estimated amount of the excess.

Sec. 5. (a) Before December 1, 2012, and before December 1 of each year thereafter, the department shall submit a report to the general assembly in an electronic format under IC 5-14-6 and to the governor concerning the implementation of this article.

(b) For each program year, the report submitted under subsection (a):

- (1) must discuss the total weight of covered electronic devices recycled in the program year and a summary of information in the reports submitted by manufacturers and recyclers under IC 13-20.5-3;
- (2) must discuss the various collection programs used by manufacturers to collect covered electronic devices, information regarding covered electronic devices that are being collected by persons other than registered manufacturers, collectors, and recyclers, and information about covered electronic devices, if any, being disposed of in landfills in Indiana;
- (3) must include a description of enforcement actions under this article during the program year; and
- (4) may include other information received by the department regarding the implementation of this article.

Sec. 6. The department shall promote public participation in the activities implemented under this article through public education and outreach efforts.

Sec. 7. (a) The department shall collect the data submitted to it annually by each manufacturer on:

- (1) the total weight in pounds of each specific model of video display device sold to households, if provided;
- (2) the total weight in pounds of video display devices sold to households;
- (3) the total weight in pounds of covered electronic devices collected from households that are recycled; and
- (4) data on recycling credits, as required under IC13-20.5-3-1.

(b) The department shall use the data described in subsection (a) to review the manufacturer's annual registration fee submitted to

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the department to ensure that the fee was calculated accurately according to the formula in IC 13-20.5-2-1.

Sec. 8. The department shall estimate, for each registered manufacturer, the sales of video display devices to households during the previous program year, based on:

(1) data provided by a manufacturer on sales of video display devices to households, including documentation describing how that amount was calculated and certification that the amount is accurate; or

(2) if a manufacturer does not provide the data specified in subdivision (1), national data on sales of video display devices.

The department shall use the data specified in this section to review each manufacturer's annual registration fee submitted to the department to ensure that the fee was calculated accurately according to the formula in IC 13-20.5-2-1.

Sec. 9. The department may participate in or join a regional multistate organization or compact to assist in implementing this article.

Sec. 10. If a national electronic waste program is implemented that is similar to the program established under this article, the department shall review, evaluate, and compare the national program, the program established under this article, and any regional agreement the department has entered into under section 9 of this chapter.

Chapter 8. Other Recycling Programs

Sec. 1. A city, a county, or any other governmental entity may not require a household to use public facilities to recycle the household's covered electronic devices to the exclusion of other lawful recycling programs available.

Sec. 2. This article does not prohibit or restrict:

(1) the operation of any program that recycles covered electronic devices in addition to programs provided by manufacturers;

(2) persons from receiving, collecting, transporting, or recycling covered electronic devices, if those persons are registered under IC 13-20.5-1; or

(3) a collector, recycler, or manufacturer from charging for directly collecting any covered electronic devices directly from households, including charging for curbside collection from households.

Chapter 9. Requirements for Purchases by State Agencies

Sec. 1. The Indiana department of administration shall ensure

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1 that acquisitions of video display devices by state agencies comply
2 with or are not subject to this article.

3 **Sec. 2. State agency solicitation documents must specify that the**
4 **prospective responder is required to cooperate fully in providing**
5 **reasonable access to its records and documents to demonstrate**
6 **compliance with this article.**

7 **Sec. 3. A person awarded a contract by a state agency for**
8 **purchase or lease of video display devices that is found to be in**
9 **violation of this article is subject to the following sanctions:**

10 (1) The contract is void if the Indiana department of
11 administration determines that the potential adverse effect to
12 the state from voiding the contract is exceeded by the benefit
13 obtained from voiding the contract.

14 (2) If the attorney general establishes that any money,
15 property, or benefit was obtained by a contractor as a result
16 of violating this article, a court may, in addition to any other
17 remedy, order the forfeiture of the unlawfully obtained
18 money, property, or benefit.

19 **Chapter 10. Disposal Prohibitions**

20 **Sec. 1. After December 31, 2010, a household may not**
21 **knowingly do any of the following:**

22 (1) Mix or allow the mixing of a covered electronic device or
23 any other computer, computer monitor, printer, or television
24 with municipal waste that is intended for disposal at a landfill.

25 (2) Mix or allow the mixing of a covered electronic device or
26 any other computer, computer monitor, printer, or television
27 with any waste that is intended for disposal by burning or
28 incineration.

29 **Sec. 2. (a) A household that violates this chapter is not subject**
30 **to:**

31 (1) a criminal or civil action or penalty; or

32 (2) any other sanction;

33 **under this title or any other state law.**

34 (b) A violation of this chapter does not create a cause of action.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Environmental Affairs, to which was referred House Bill 1589, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, line 16, delete "entity that:" and insert "**entity:**

(1) that:

(A) receives covered electronic devices from households; and

(B) arranges for the delivery of the covered electronic devices to a recycler; or

(2) that collects covered electronic devices directly from households, including curbside collection from households."

Page 1, delete line 17.

Page 2, delete lines 1 through 2.

Page 4, line 11, delete "as" and insert "**or a brand the person licenses as**".

Page 4, line 12, delete "; or" and insert "**or the brand label the person licenses;**".

Page 4, line 14, after "brand" insert "**or a brand the person licenses**".

Page 4, line 15, delete "." and insert "**or the brand label the person licenses; or**

(3) assumes the responsibilities and obligations of a manufacturer under IC 13-20.5."

Page 7, line 10, delete "nine (9)" and insert "**four (4)**".

Page 7, line 19, delete "a larger piece of" and insert "**or connected to a system or**".

Page 7, line 20, delete "or is".

Page 7, line 25, delete "other than household security;" and insert "**sensing, monitoring, or counterterrorism;**".

Page 7, line 26, delete "or".

Page 7, line 27, after "medical;" insert "**or**

(H) a governmental or research and development;".

Page 8, line 6, delete "." and insert "**, regardless of whether the manufacturer owns or licenses the brand."**

Page 11, line 31, delete "the registration fee for the" and insert "**a manufacturer may not be charged a registration fee for any year in which the manufacturer produces fewer than one hundred (100) video display devices for sale to households."**

Page 11, delete lines 32 through 35.

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Page 13, between lines 5 and 6, begin a new line block indented and insert:

"(4) The amount in pounds of covered electronic devices the manufacturer arranged for a recycler to collect and recycle that were not converted to recycling credits."

Page 13, line 20, delete "A" and insert **"(a) Except as provided in subsection (b), a"**.

Page 13, line 22, delete ":" and insert **"at least eighty percent (80%) of the total weight of the manufacturer's video display devices sold to households during the preceding program year."**

(b) The solid waste management board may adopt rules:

(1) under IC 4-22-2 and IC 13-14-9; and

(2) based on data collected under this article;

to establish a percentage that is greater than eighty percent (80%) for use in calculations performed under subsection (a)."

Page 13, delete lines 23 through 30.

Page 14, line 11, delete "video display" and insert **"covered electronic"**.

Page 17, between lines 6 and 7, begin a new paragraph and insert:

"Sec. 10. If a national electronic waste program is implemented that is similar to the program established under this article, the department shall review, evaluate, and compare the national program, the program established under this article, and any regional agreement the department has entered into under section 9 of this chapter."

Page 17, line 15, delete "or".

Page 17, line 18, delete "IC 13-20.5-1." and insert **"IC 13-20.5-1; or**

(3) a collector, recycler, or manufacturer from charging for directly collecting any covered electronic devices directly from households, including charging for curbside collection from households."

Page 17, line 40, delete "person" and insert **"household"**.

Page 18, delete lines 3 through 5.

Page 18, line 6, delete "(3)" and insert **"(2)"**.

Page 18, after line 9, begin a new paragraph and insert:

"Sec. 2. (a) A household that violates this chapter is not subject to:

(1) a criminal or civil action or penalty; or

(2) any other sanction;

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under this title or any other state law.

(b) A violation of this chapter does not create a cause of action."

and when so amended that said bill do pass.

(Reference is to HB 1589 as introduced.)

DVORAK, Chair

Committee Vote: yeas 7, nays 0.

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